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Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RAEF LAWSON, in his capacities as Private Attorney General Representative,

Plaintiffs,

V.

**GRUBHUB HOLDINGS INC. and
GRUBHUB INC.,**

Defendants.

CASE NO. 3:15-cv-05128-JSC

JOINT CASE MANAGEMENT STATEMENT

Conference:

Date: July 11, 2024
Time: 1:30 p.m.
Place: Courtroom 8

Judge: Hon. Jacqueline Scott Corley
Action Filed: September 23, 2015
Trial Date: Not set

1 Plaintiff Raef Lawson, in his capacity as Private Attorneys General Representative (“Plaintiff”
 2 or “Lawson”), and Defendants Grubhub Holdings Inc. and Grubhub Inc. (collectively, “Defendants”
 3 or “Grubhub”), by and through their respective counsel of record, hereby submit the following Joint
 4 Case Management Statement pursuant to Local Rule 16-10(d), in advance of the Further Case
 5 Management Conference scheduled in this matter for July 11, 2024.

6 **I. JURISDICTION AND SERVICE**

7 The parties do not intend to raise any issues regarding personal or subject matter jurisdiction or
 8 venue at this time.

9 **II. FACTS**

10 Since the parties’ last CMC Statement (Dkt. 359 at 1–3), the Court determined that Lawson
 11 lacks Article III standing to pursue PAGA penalties for overtime and expense reimbursement claims
 12 he did not personally suffer and stayed these claims pending adjudication of his minimum wage claim.
 13 Dkt. 367 at 15. The Court thus stayed Plaintiff’s PAGA claims based on overtime and expense
 14 reimbursement. *Id.* As for his minimum wage claim, the Court ruled “on the current record” that
 15 Lawson has Article III standing to pursue PAGA penalties after April 2017 for “time spent on-block”
 16 as well as time spent off-block but performing deliveries. *Id.* at 8–9. The Court, however, noted that
 17 “this standing analysis may change as the record develops.” *Id.* at 1–2, 10. The Court further
 18 concluded, based on the current record, that Lawson lacks standing to recover PAGA penalties “for
 19 minimum wage violations based on off-block time spent waiting for delivery requests and minimum
 20 wage violations that occurred after December 16, 2020, the day Proposition 22 took effect.” *Id.* at 15.
 21 Thus the Court limited the relevant PAGA period to December 3, 2014, through December 16, 2020—
 22 “subject to modification pending review of” the parties’ supplemental briefs on Lawson’s standing to
 23 litigate Grubhub’s compliance with Prop 22. *Id.*

24 **III. LEGAL ISSUES**

25 The parties currently do not intend to raise new legal issues not already addressed in their prior
 26 CMC statement (Dkt. 359 at 4–10) or flagged as an open issue in the Court’s recent order (Dkt. 367 at
 27 1–2, 10, 15). The parties reserve the right, however, to raise additional issues in advance of the
 28 proposed CMC hearing on November 7, 2024. *See infra* at Part VII.

1 **IV. MOTIONS**

2 Since the last CMC statement (Dkt. 359 at 10–11), Plaintiff filed a Brief on Standing to Pursue
 3 PAGA Penalties After Effective Date of Proposition 22 on February 21, 2024. Dkt. 369. Grubhub
 4 filed a response on March 6, 2024. Dkt. 371.

5 **V. DISCOVERY**

6 At the last hearing, the Court directed Grubhub to produce wage-and-hour data for Delivery
 7 Partners from December 3, 2014, through December 15, 2020. Dkt. 368 at 39:12–17. The Court also
 8 requested that the parties estimate “the number of violations” without regard to the applicability of the
 9 business-to-business exemption. Dkt. 368 at 36:1–11.

10 In April 2024, without waiver of its right to supplement its data production, Grubhub produced
 11 more than nine gigabytes of data showing scheduled block hours, pay, and time spent performing
 12 deliveries for each Delivery Partner in California for each day. The production also contained more
 13 granular offer and order data comprising more than 99 million entries.

14 The parties are diligently working to analyze the voluminous data that Grubhub has produced
 15 over a seven-year span and expect to complete their analysis within the next several months. The
 16 parties then plan to meet and confer by October 15, 2024, before presenting their findings to the Court.
 17 *See infra* Part VII.

18 **VI. SETTLEMENT AND ADR**

19 The parties have engaged in several mediations regarding this case and have not reached
 20 settlement. The parties have submitted the ADR forms required under the local rules, have attended
 21 all scheduled ADR phone conferences, and will comply with any instructions by the Court regarding
 22 whether mediation is appropriate. The parties have rescheduled the settlement conference set for April
 23 24, 2024, to August 23, 2024, to give this Court sufficient time to decide whether Lawson has Article
 24 III standing to pursue PAGA penalties for minimum wage violations, if any, occurring after December
 25 16, 2020.

26 **VII. SCHEDULING**

27 The parties jointly propose the following schedule through final resolution of the case.
 28 Although briefing on Lawson’s standing to pursue PAGA penalties after Prop 22’s effective date is

1 now complete, the parties respectfully request that the Court hear argument on this issue on November
 2 7, 2024, given their lead counsel's scheduling conflicts.

Event	Date
Complete minimum wage data analysis by:	September 30, 2024
Complete meet and confer regarding minimum wage data analysis by:	October 15, 2024
Case management conference statement to be filed by:	October 30, 2024
Case Management Conference and hearing on Lawson's standing to pursue PAGA penalties after Prop 22's effective date and for on-block time, and any other legal matters that may arise:	November 7, 2024
Trial plan to be filed by:	November 21, 2024
Close of third-party discovery, if ordered by the Court:	February 17, 2024
Start of trial:	March 3, 2025

12 Dated: July 3, 2024

Respectfully submitted,

13 LICHEN & LISS-RIORDAN, P.C.
 14

15 By: /s/ Shannon Liss-Riordan
 16 Shannon Liss-Riordan

17 Attorneys for Plaintiff RAEF LAWSON

18 GIBSON, DUNN & CRUTCHER LLP

19 By: /s/ Theane Evangelis
 20 Theane Evangelis

21 Attorneys for Defendants GRUBHUB HOLDINGS
 22 INC. and GRUBHUB INC.

ECF ATTESTATION

Pursuant to Civil Local Rule 5-1(h)(3) of the Northern District of California, I attest that concurrence in the filing of the document has been obtained from each of the other signatories to this document.

Dated: July 3, 2024

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Theane Evangelis
Theane Evangelis

Attorneys for Defendants GRUBHUB HOLDINGS INC. and GRUBHUB INC.